THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.20747 OF 2005

Dt:22.09.2005

Between:

D.Sampath Kumar .. Petitioner

And

The Union of India and others

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.20747 OF 2005

ORDER:

The petitioner appeared in the EAMCET-2005 examination with a view to get admission in the first year of M.B.B.S., course. He secured the rank of 28279. Therefore, he was not selected in the ordinary course. He has suffered handicap to the lower limbs. The District Medical Officer, Visakhapatnam issued a certificate dated 18.08.2005 certifying that the petitioner had suffered handicap to his lower limbs to the extent of 40%. The State Government reserved 3% of total seats in the

first year of M.B.B.S., course in favour of the physically handicapped candidates. The petitioner made a claim against it. The petitioner did not make any claim against those seats on account of the fact that the respondents notified that only those candidates, who have suffered handicap between 50% to 70%, would be considered. However, on coming to know that several candidates, who suffered handicap to the extent of 40%, have approached this Court, the petitioner has also filed W.P.No.18145 of 2005 before this Court.

Pursuant to the interim direction granted by this Court on 18.08.2005, the case of the petitioner was also considered by the third respondent. The petitioner was referred to a team of doctors for assessment of the handicap of the petitioner. It is stated that the team assessed the handicap of the petitioner at 15% and thereby rejected the claim of the petitioner. He challenges the action of the respondents in denying admission to him.

Sri M.Kesava Rao, the learned counsel for the petitioner submits that the variation as to the percentage of the handicap is so abnormal and that it is difficult to treat the same as objective. He submits that the team of Doctors constituted by the third respondent for this purpose during the course of first counselling has assessed many candidates to be ineligible, whereas during the second counselling, pursuant to the directions of this Court, the same candidates were found to be eligible. He submits that the respondents ought to have accepted the certificate issued by the District Medical Officer, Visakhapatnam.

The learned standing counsel for the respondents, on the other hand, submits that with a view to screen the claims of the candidates as to their physical handicap, the University constituted a team and unless any *mala fides* or motives are attributed to the members thereof, it is difficult to suspect the correctness of their assessment.

As against the various categories of physical handicap, the candidates with handicap to the lower limbs alone are recognized as eligible, for consideration of the claims against the seats reserved in favour of the physically handicapped candidates in the case of M.B.B.S., course. This is on the basis of the resolution passed by the Medical Council of India and notification issued by the Government. The petitioner was certified as having suffered physical handicap to the extent of 40% to his lower limbs. Notwithstanding the controversy as to whether the handicap must be between 50% and 70% or between 40% and 70%, the case of the petitioner

was considered pursuant to the interim directions issued by this Court. However, the team, which examined the petitioner, found the handicap of the petitioner to be at 15%. Once the expert body expressed its opinion, this Court cannot substitute the same with any other. The petitioner did not attribute any motives or *mala fides* to the members of the team. Therefore, the assessment undertaken by the team cannot be viewed with any suspicion.

In that view of the matter, the writ petition is dismissed.

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22.09.2005

kdl